

HOUSE No. 2467

By Ms. Blumer of Framingham, petition of Deborah D. Blumer and others relative to property tax deferrals for certain disabled and elderly property owners. Revenue.

The Commonwealth of Massachusetts

PETITION OF:

Deborah D. Blumer	Anthony J. Verga
Robert A. DeLeo	Tom Sannicandro
Bruce E. Tarr	Jennifer M. Callahan
Douglas W. Petersen	Carl M. Sciortino Jr.
Barbara A. L'Italien	Alice K. Wolf
David Paul Linsky	Cory Atkins
Edward G. Connolly	James B. Eldridge
Christine E. Canavan	James R. Miceli
Kathi-Anne Reinstein	Anne M. Paulsen
Michael A. Costello	Mark J. Carron
Shirley Gomes	Joyce A. Spiliotis
Timothy J. Toomey, Jr.	Thomas J. O'Brien
Thomas P. Kennedy	Benjamin Swan

In the Year Two Thousand and Five.

AN ACT RELATIVE TO PROPERTY TAX DEFERRAL FOR CERTAIN DISABLED AND ELDERLY PROPERTY OWNERS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 Section 5 of said chapter 59 of the General Laws, as so
- 2 appearing, is hereby further amended by striking out clause Forty-
- 3 first A and inserting in place thereof the following clause:—
- 4 Forty-first A. Real property, to an amount determined as here-
- 5 inafter provided, of a person 65 years of age or over or disabled
- 6 and occupied by him as his domicile, of a person who owns the
- 7 same jointly with his spouse, either of whom is 65 years of age or

8 over or disabled, and occupied as their domicile, or of a person
9 who owns the same jointly or as a tenant in common with a person
10 not his spouse and occupied by him as his domicile; provided, that
11 such person has been domiciled in the commonwealth for the pre-
12 ceding 10 years and

13 (1) has so owned and occupied as his domicile such real prop-
14 erty or other real property in the commonwealth for 5 years; or

15 (2) is a surviving spouse who inherits such real property and
16 has occupied such real property or other real property in the com-
17 monwealth as his or her domicile for 5 years and who otherwise
18 qualifies under this clause; and provided further that such person,
19 and such person and his spouse, if married, had, during the pre-
20 ceding year, gross receipts from all sources not in excess of
21 \$20,000. Any city or town may also, by vote of its legislative
22 body, adopt a higher maximum qualifying gross receipts amount
23 for the purposes of this section; provided, however, that such
24 maximum qualifying gross receipts amount shall not exceed the
25 amount of income determined by the commissioner for the pur-
26 poses of subsection (k) of section 6 of chapter 62.

27 In determining the total period ownership of an applicant for
28 exemption under this clause, the time during which the same prop-
29 erty was owned by a husband or wife individually shall be added
30 to the period during which such property was owned by said hus-
31 band and wife jointly. In computing the gross receipts of such an
32 applicant or of such an applicant and his spouse, if married, ordi-
33 nary business expenses and losses may be deducted but not per-
34 sonal and family expenses.

35 Any such person may, on or before December 15 of each year
36 to which the tax relates or within 3 months after the date on which
37 the bill or notice is first sent, whichever is later, apply to the board
38 of assessors for an exemption of all or part of such real property
39 from taxation during such year; provided, however, that in the
40 case of real estate owned by a person jointly or as a tenant in
41 common with a person not his spouse, the exemption shall not
42 exceed that proportion of total valuation which the amount of his
43 interest in such property bears to the whole tax due. The board of
44 assessors shall grant such exemption provided that the owner or
45 owners of such real property have entered into a tax deferral and

46 recovery agreement with said board of assessors on behalf of the
47 city or town. The said agreement shall provide:

48 (1) that no sale or transfer of such real property may be con-
49 summated unless the taxes which would otherwise have been
50 assessed on such portion of the real property as is so exempt have
51 been paid, with interest at a uniform rate to be determined annu-
52 ally by the local appropriating authority not in excess of 8 per cent
53 per annum;

54 (2) that the total amount of such taxes due, plus interest, for the
55 current and prior years does not exceed 50 per cent of the owner's
56 proportional share of the full and fair cash value of such real prop-
57 erty;

58 (3) that upon the demise of the owner of such real property, the
59 heirs-at-law, assignees or devisees shall have first priority to said
60 real property by paying in full the total taxes which would other-
61 wise have been due, plus interest; provided, however, if such heir-
62 at-law, assignee or devisee is a surviving spouse who enters into a
63 tax deferral and recovery agreement under this clause, payment of
64 the taxes and interest due shall not be required during the life of
65 such surviving spouse. Any additional taxes deferred, plus
66 interest, on said real property under a tax deferral and recovery
67 agreement signed by a surviving spouse shall be added to the
68 taxes and interest which would otherwise have been due, and the
69 payment of which has been postponed during the life of such sur-
70 viving spouse, in determining the 50 per cent requirement of sub-
71 paragraph (2);

72 (4) that if the taxes due, plus interest, are not paid by the heir-
73 at-law, assignee or devisee or if payment is not postponed during
74 the life of a surviving spouse, such taxes and interest shall be
75 recovered from the estate of the owner; and

76 (5) that any joint owner or mortgagee holding a mortgage on
77 such property has given written prior approval for such agree-
78 ment, which written approval shall be made a part of such agree-
79 ment.

80 In the case of each tax deferral and recovery agreement entered
81 into between the board of assessors and the owner or owners of
82 such real property, said board of assessors shall forthwith cause to
83 be recorded in the registry of deeds of the county or district in
84 which the city or town is situated a statement of their action which

85 shall constitute a lien upon the land covered by such agreement
86 for such taxes as have been assessed under the provisions of this
87 chapter, plus interest as hereinafter provided. A lien filed pursuant
88 to this section shall be subsequent to any liens securing a reverse
89 mortgage, excepting shared appreciation instruments. The state-
90 ment shall name the owner or owners and shall include a descrip-
91 tion of the land adequate for identification. Unless such a
92 statement is recorded the lien shall not be effective with respect to
93 a bona fide purchaser or other transferee without actual knowl-
94 edge of such lien. The filing fee for such statement shall be paid
95 by the city or town and shall be added to and become a part of the
96 taxes due.

97 In addition to the remedies provided by this clause, the
98 recorded statement of the assessors provided for in this clause
99 shall have the same force and effect as a valid taking for nonpay-
100 ment of taxes under the provisions of section 53 of chapter 60,
101 except that: (1) interest shall accrue at the rate determined under
102 this clause for each year until the conveyance of the property or
103 the death of the person whose taxes have been deferred, after
104 which time interest shall accrue at the rate provided in section 62
105 of chapter 60; (2) no assignment of the municipality's interest
106 under this clause may be made pursuant to section 52 of chapter
107 60; (3) no petition under section 65 of chapter 60 to foreclose the
108 lien may be filed before the expiration of six months from the
109 conveyance of the property or the death of the person whose taxes
110 have been deferred.

111 For purposes of this clause, the term "disabled" shall refer to an
112 individual who has been determined disabled for purposes of
113 Social Security Disability insurance or Supplemental Security
114 income programs created under title II and XVI, respectively, of
115 the Social Security Act.